

**COMMISSION MEETING
THURSDAY, SEPTEMBER 11, 2003
DRAFT MINUTES**

Chair McLaughlin called the meeting to order at 1:35 p.m., at the Best Western Icicle Inn located in Leavenworth. She called for a moment of silence to commemorate the second anniversary of 9-1-1; and then welcomed the attendees and introduced the members and staff present:

MEMBERS PRESENT: **COMMISSIONER LIZ McLAUGHLIN, Chair;**
 COMMISSIONER ALAN PARKER, Vice Chair;
 COMMISSIONER CURTIS LUDWIG; Kennewick
 COMMISSIONER JANICE NIEMI, Seattle;
 SENATOR MARGARITA PRENTICE, South Seattle;
 SENATOR SHIRLEY WINSLEY; Fircrest
 REPRESENTATIVE ALEX WOOD, Spokane;

STAFF PRESENT: **RICK DAY, Director;**
 ROBERT BERG, Deputy Director;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 AMY PATJENS, Manager, Communications and Legal Dept.;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

Director Day and **Chair McLaughlin** presented employee service recognition awards to Special Agent Travis Watkins and Deputy Director Bob Berg in recognition of their five-years of service with the State of Washington.

- 1. Review of Agenda and Director's Report:** **Director Day** identified and reviewed inserts added to the agenda packet. He then highlighted the changes to Thursday's and Friday's agenda, noting that at the request of the licensee's representative, Item 3, the manufacturer report for TidalPower Technologies, Inc., would be moved to Friday morning. Additionally, the Default Hearing scheduled for Mel's, located in Seattle, was removed from the agenda in order to provide the licensee with more time for their paperwork to be submitted. **Chair McLaughlin** requested that Item 14, the Request for an Increase in the Betting Limits, be moved to the last agenda item on Friday. The commissioners concurred with the agenda changes as proposed.

Use of Technology in Agency Operations: **Director Day** reported that at the August Commission Meeting, a brief discussion was conducted regarding record keeping requirements and whether or not the Commission was also taking advantage of technology, and looking for ways to reduce paperwork. Deputy Director Berg provided a memorandum summarizing the various steps the agency has already taken; however, Director Day reminded the Commission that there are still a great number of the public and licensees that are not equipped to handle interaction with the Commission via electronic means, and that as the Commission moves forward technologically, staff would keep that in mind. Although staff strives for those efficiencies, it may not be applicable for everyone, or for every use. Director Day acknowledged a progressive idea recently proposed by a bank to provide the Commission with bank statements and checks on compact disks that agents could review, rather than having to review hard copies at the licensee's premise. The bank hasn't responded in final form; however, there may be some rule changes discussed in that regard. He assured the Commission that staff would continue to look at and entertain other ideas and applications as appropriate.

Director Day pointed out that 22 licensing staff processed 10,686 licenses in 1997. In 2003 the number of licenses processed rose to 16,829, an increase of more than 57 percent, while the number of employees in licensing only increased by six positions, or less than 28 percent. He also noted that prior to the initiation of automation; four gambling license technicians ran approximately 600 criminal checks per month. During the last fiscal year, two gambling license technicians ran in excess of 1,500 checks. The Commission is on the edge of doing those exchanges by digitizing fingerprints and conducting those checks electronically in cooperation with the Washington State Patrol, which will make that process even more expedient.

Correspondence - **Director Day** reviewed the correspondence contained in the agenda packet, and drew attention to the correspondence sent to the Governor from the Commission as requested.

Adjusted Cash Flow - **Director Day** reported on the second quarter for 2003, which ended June 30. He noted that five of the 28 licensees did not meet the requirements for one quarter. He reported that "Bingo for Kid's Causes" in Renton, was in the red and they notified the Commission that they would be terminating their business. Staff is continuing to discuss the possibility of relief rule options that are fair and simple to apply.

Monthly Update Reports - **Director Day** highlighted the Administrative Case Update, and then reviewed the Congressional Update. He noted the House and Senate passed Internet gambling financial restrictions; however, there are two opposing versions. Staff will continue to monitor that progress.

Director Day also addressed Senate Bill 1529, which was introduced with proposed amendments for the Indian Gaming Regulatory Act dealing with limits to revenue sharing, NIGC's minimal internal controls, and fee increase reductions depending on the tribal state regulation. The legislation is very significant for Washington because it is the first time the Federal Government actually recognized the work of the tribes and the state to regulate gambling. That legislation also called for

the NIGC to develop a strategic plan. **Director Day** highlighted the Seizure Case Update, the Tribal Update, and the news articles included in the agenda packet. **Chair McLaughlin** asked for questions, there were none.

2. Group IV Qualification Review:

Sister Rebecca Berghoff Foundation, Union Gap:

Deputy Director Robert Berg reported the evaluation period for this licensee was through December 31, 2002. The organization was formed in 1990 and was also licensed by the Commission in that year. They exist to provide operating funds for St. Joseph Elementary and Marquette Middle Schools. The organization holds a Class J Bingo and Class J Pull-tab license. During the measurement period, they donated over \$412,000 to the school operations. Staff's analysis of the records indicates that the organization made significant progress toward accomplishing its stated purpose and they are qualified to operate as a non-profit in the state of Washington under the Commission rules. He noted the net receipts were down by approximately \$120,000 for the year ending in December 2002, versus December 2001, which was indicative of the market in the Yakima area. Mr. Berg noted their price payouts were higher than like licensed entities throughout the state, however, that was an issue of competition. Since this report was prepared, the YWCA ceased Bingo operations, which may create a change in the dynamics of Bingo in that area over the longer term. Staff's analysis shows this organization is qualified as a non-profit organization. He noted Ray St. Mary and Theresa Smith were present to offer comments.

Theresa Smith and **Ray St. Mary** introduced themselves. Mr. St. Mary stated that Bingo has been important for their operations as with other Catholic Schools in the state. He thanked the Commission and hoped to continue with Bingo in the future. **Chair McLaughlin** verified whether the closure of the YWCA had impacted their operation. Mr. St. Mary responded that their first six months of income was up a little bit. He anticipated the second half of the year would show better income returns, and that they would be able to hold their margins for the coming year.

Commissioner Ludwig responded that many Bingo and punchboard operations were struggling statewide, particularly in Yakima because of the Legends Casino located 20 miles away. He inquired how they accounted for their steady solid revenues. Mr. St. Mary acknowledged Ms. Smith's hard work, saying that she is an excellent manager, a hands-on person, and present at all the games. He believed the rapport and relationship they have with the customers has been maintained.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to certify Sister Rebecca Berghoff Foundation located in Union Gap to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken; the motion passed with four aye votes.*

3. Manufacturer Report:

TidalPower Technologies, Inc., moved to Friday's agenda.

4. House-Banked Card Room Reports:

Hollywood Casino, Shoreline:

Bob Berg reported that Hollywood Shoreline Casino, LLC, applied for a license to operate 15 tables of house-banked card games in the state of Washington. The facility is located in Shoreline. The

organization was formed as a limited liability company in February of 1999. The headquarters of the LLC is in Shoreline. Hollywood Shoreline Casino, LLC consists of one individual, Mark Mitchell, who owns 100 percent of the membership shares. This applicant has no other house-banked licenses at this time.

Staff from the Financial Investigations Unit conducted criminal and personal history background investigations on all substantial interest holders, and initiated and completed a financial investigation on both the LLC and the personal finances of its principal owner, Mr. Mitchell. In the course of that investigation, no disqualifying information was found that would preclude licensure. Special agents also conducted an on-site pre-operational review and evaluation (PORE). At the time of that investigation the client was found to be in compliance with the rules of the Commission. Based on the results of the licensing investigation and the PORE, commission staff recommends that Hollywood Shoreline, LLC, d/b/a Hollywood Casino be licensed as a house-banked card room to operate up to fifteen tables with a maximum betting limit of \$25. Mark Mitchell and John Mitchell were present to respond to questions.

Mark and John Mitchell identified themselves and indicated they were happy to be getting a license. **Chair McLaughlin** inquired when they planned on opening, if their license was approved. Mark Mitchell responded within 7 to 15 days from now.

Senator Winsley asked about the size of the establishment. **Mark Mitchell** advised the facility was a little over 20,000 square feet on two floors, noting they have a piano bar upstairs and a large restaurant. Only one-third of the building houses the card room operation. They also have the "World's Largest Movie Star Autograph Collection" on display -- Marilyn Monroe's limousine and other memorabilia from Hollywood.

Commissioner Ludwig made a motion seconded by **Commissioner Niemi** to license Hollywood Casino, located in Shoreline, as a house-banked card room to operate up to fifteen tables with a maximum betting limit of \$25. *Vote taken; the motion passed with four aye votes.*

House-Banked Card Room Status Report:

Mr. Berg announced that with the today's approval, there are 81 house-banked card rooms licensed in the state of Washington -- 79 of those are currently operating; two are licensed but not operating, (Habanas and King City Casino) they maintain their license, but currently are closed. He also clarified another house-banked card room recently closed and surrendered their license -- the River Bend Casino/Restaurant in Spokane. In addition, 12 applications are in the queue and currently under investigation.

5. New Licenses, Changes, and Tribal Certifications:

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to approve the new licenses, changes and Class III tribal certifications as listed on pages one through eight on the approval list. *Vote taken; the motion passed with four aye votes.*

6. Default Hearings:

Antone Perkins, Card Room Employee, Hideaway, Shoreline:

Amy Patjens, Administrator, Communications and Legal Department, reported that Mr. Perkins failed to fully disclose his criminal history when he filed his application. Staff is requesting that a default order be entered for Antone Perkins based on his criminal history and his failure to fully disclose that history. The Director brought charges against Mr. Perkins, they were sent by regular mail as well as by certified mail. The agency's legal secretary also contacted Mr. Perkins, who said he would fax and mail the hearing request immediately. He did not do so, and by failing to respond, he has waived his right to a hearing. Staff is therefore requesting a default order be entered, revoking his license.

Jerry Ackerman, Assistant Attorney General ascertained for the record that Mr. Perkins was not present. He was not, nor did anyone speak on his behalf.

Commissioner Ludwig made a motion seconded by Commissioner Parker to adopt the Conclusions, Findings and Order to revoke Mr. Perkins' card room employee license. Vote taken; the motion passed with four aye votes.

Mel's, Seattle:

The Default Hearing was removed from the agenda as previously discussed.

7. Presentation - Public Policy Research:

Amy Patjens reported that in the past, the Commission received a number of questions about gambling taxes as well as charitable and non-profit gambling. The idea of the public policy research came about so that staff would be able to gather research to respond to these questions and have it be more comprehensive. Currently, the Commission has a lot of information; however, often times it is more anecdotal information.

Charitable/Non-Profit Study:

Ms. Patjens acknowledged the presence of two different groups and introduced several members of the charitable non-profit community: Julia Puckett, Ric Newgard, Anne Franker, Douglass Kreff, as well as Special Agent Brian Lane, the agency's Non-profit Coordinator. Ms. Patjens explained that when the committee was assembled, staff tried to have a balance, and looked for an organization that conducted Bingo in the past, but was no longer doing so. Staff also looked for a small organization, someone who primarily conducted raffles, pull-tabs, or a small Bingo game. They looked for representatives from the commercial operators, and manufacturers/distributors. The committee developed a list of three recommended topics:

The first topic related to the legislative intent associated with the adoption of the Gambling Act. It was believed a review of the history and timeline associated with gambling activities would be beneficial, and the committee suggested a review of the legislative intent and actions, court cases, and news articles. They believed a determination of whether charitable/nonprofit gambling were mentioned when the legislative declaration was discussed, and whether the current laws promote the legislative declaration of letting the charitable/nonprofit organizations raise funds through gambling,

would be important information. The committee felt that an assessment of the rules (both old and new) would be informative to verify that the rules still support the legislative intent, and to determine if the Commission's regulatory structure was accomplishing what was intended. The committee believed an examination should be conducted on how Bingo and other charitable/nonprofit gambling activities are occurring today; and how many have charitable purposes compared to non-profit purposes. Finally, that a timeline should be developed showing gross receipts, the number of licensees and when charitable/nonprofit or other changes were made.

The committee suggested looking at options for the future and activities from other states. The committee's objective was to broadly and objectively discuss six things that could help the industry, to review activities added in other states or Canada in the past ten years and their successes -- to include policy issues and statutory or rule changes needed.

The last topic was to look at the percent of the budget from organizations that were from gambling, and the services that were provided. The committee thought that having that information together would be useful, as well as seeing how that has changed over the past 5, 10, and 20 years.

The committee reviewed the services provided through gambling dollars -- what types of programs the organizations are able to give to the public, and how much in donations the non-profit and charitable organizations receive from commercial gambling businesses and tribal governments.

The benefit of this research would be to provide a more comprehensive assessment of charitable and non-profit gambling, and it would give the agency more solid factual information as opposed to anecdotal information. Staff could evaluate how gambling contributes to charitable and non-profit organizations, and the information may form the foundation for future Commission rule making and providing recommendations for change.

Gambling Tax Research:

The committee discussed five topics, the first being the legislative intent and history, which was essentially the same questions associated with the charitable non-profit study. One of the questions the committee thought would be useful to have answered was how governments have reacted to different changes in laws. After house-banking was allowed in 1997, there was a surge of cities that put prohibitions and bans on house-banked card games. We also saw changes when tax rates were changed, and the committee thought it would be interesting to go back and see how many of the cities decided to tax the full rate, and how many left them at the lower rates they already had.

The second topic was to look at the practicality and impacts of changing taxes. Many ideas were discussed such as if taxes were increased, would it cause business closures, and, if taxes were decreased, would it cause reinvestments in the businesses, and/or would it cause some businesses to be able to provide health benefits that they don't currently provide.

The third topic would be to compare Washington to other states. Last fall staff conducted a tax survey after one of the round tables held by Senator Prentice. Through that process, staff learned that it was important to make sure each state was defining terms the same way. For instance, how one defines gross; as the total amount brought in, versus the amount brought in minus prizes. Ms.

Patjens demonstrated a list of the different areas the committee thought would be helpful to look at. One of the components would be to look at whether charitable and non-profits pay taxes in other states.

The fourth topic is a history piece; looking at the percent of gambling revenues that are received by the industry compared to the taxes paid. For example, five years ago, if Bingo was bringing in 50 percent of the revenue, were they also paying out 50 percent of the taxes. The committee thought it would be helpful to look at and make those kinds of comparisons, and then try to make some projections on whether revenues were expected to increase or decrease over the next five years, and determine if there would be any corresponding impacts.

The fifth topic looked at local jurisdiction issues. If taxes were increased, decreased or diverted, how would it impact cities and how might they respond - would cities choose to implement bans, which they currently haven't done, because currently they are getting that revenue source. It was also recommended that we look at the number of licensees within the jurisdictions of paying taxes. The committee thought it would be helpful to see how the taxes and fees in Washington really compare with fees and taxes paid in other states. The committee also thought it would be interesting to see if there were any other taxing structures that are like Washington's, and if not, to find somewhere that was similar in some parallel respect; the same type of gambling allowed, or population.

The research benefits would serve as a significant educational tool for staff, the Commissioners, and for legislatures. It would enable staff to better answer some of the frequently asked questions.

Ms. Patjens highlighted the contract process. If the desire was to hire someone outside of the agency, the Commission could go through a Request for Proposals (RFP) process – defining the task to be completed and publishing advertisements in the newspapers. The contract applicants would be reviewed by a selection committee and ultimately, the Commission would negotiate and award the contract. If the RFP process is authorized, a three-member selection committee was recommended – perhaps two members from the original public research committee, and possibly a Commissioner. The benefit of contracting out would be to have the experience, expertise, and perspective from an outside company. If the project was contracted out, the Commission would not have to hire new staff or redirect existing staff.

Committee Recommendations:

1. Charitable Non-Profit Study

Option #1(A), to contract out and have the identified topics researched. The project cost was estimated between \$50,000 to \$75,000.

Option #1(B) would be to look at the five topics listed and contract out. Ms. Patjens explained that Commissioner Parker and Commissioner Niemi had suggested reducing the five topics down to a couple topics, and looking at the history; what's happened over time, the legislative declaration, and how other states tax charities. This would mean we would not be looking at activities added in other states and doing the piece on services provided and the budgets from

gambling.

2. Gambling Tax Study

Option #2 would be to limit looking at the gambling tax survey to five to seven states, rather than 48 other states. It also limits the piece on local jurisdiction by only looking at the numbers that were at the maximum tax rate and the percentage of their budget from gambling, and not focusing on what cities would do if there were changes in their tax rates.

If the Commission contracts out, staff would begin the process of soliciting bids and targeting a selection to be facilitated by December or January. Under that option, staff would likely ask the Commission for additional budget authority to pay for these services, and staff would expect to have the final report by the end of April. **Ms. Patjens** explained there were three decisions for the Commissioners to make: whether to pursue this research (it could be for one of the studies, or both, or neither). If the decision is made to pursue the research, there are two options: to look at the Committee's recommendations, which are 1(A) and 1(B), or looking at the reduced topics, which is Option 2. The last decision would be whether to have staff begin the process of looking at contracting out, or hiring temporary staff instead. **Ms. Patjens** reported that on the Charitable Non-Profit Study, staff recommends going with Option 1(A) and contracting out. In reference to the Gambling Tax Study, staff recommends going with the option that would look at the reduced topics, and having it as an internal staff project, which would probably involve hiring temporary or project staff. She affirmed that regarding the gambling tax study, staff's recommendation was not what the Committee recommended.

Ms. Patjens addressed three letters received from the cities of Federal Way, Burien and Lakewood. They were concerned the study and potential impacts might undermine the current system of local gambling taxes, and they pointed out that local communities have been hit very hard by the slow down in the economy and the recent initiatives that have passed. **Ms. Patjens** reported that she responded to each of the cities to advise them that the overall project was much broader than only focusing on the local jurisdiction tax structures. She asked if there were any questions. **Chair McLaughlin** thanked the committee for their hard work.

Commissioner Ludwig questioned the level of local taxes that were being collected by Federal Way, Burien and Lakewood -- whether it was 20, 15 or 10 percent. **Ms. Patjens** responded that Burien was at 11 percent -- they have one house-banked card room in their area, Lakewood was at 11 percent with two house-banked card rooms, and Federal Way was at 20 percent with three house-banked card rooms.

Commissioner Parker asked if there were any additional taxes like the B&O. **Ms. Patjens** responded that for the fiscal year 2002, the total paid from Bingo, Pull-Tabs and Card Rooms was \$6.3 million to the state in B&O. **Commissioner Niemi** advised that she would be interested in knowing how much of the B&O was paid to the local jurisdictions and to the state.

Senator Winsley advised that she didn't find too much fault with the cities for being concerned. In situations where the state may decide to tax a city, they will either have to cut the local percentage or raise the tax cost for the operators. She believed either way, it was understandable that they would

be concerned. **Commissioner Niemi** responded that everyone had to realize that the whole gambling idea had changed dramatically since 1973. Some revenues have gone up enormously; there are a lot of new game rooms, and a lot of new things, which is why the Commission is looking at this matter. She emphasized the intent was not to take anything away from local jurisdictions, however, the state legislators needed to know the numbers. Commissioner Niemi clarified that she had no intent to endorse any kind of recommendation for the Legislature; she just intended to give them the information.

Commissioner Ludwig noted the Legislature and Governor's Office has a task force in place to study gambling and revenue, and asked if these studies would be duplicating any of their work. **Director Day** believed the study being referenced was the Lottery study. He advised that as a member of that task force, to date, he had not been notified that it was moving forward at this point. Their direct authorization was to discuss methods to enhance revenue from gambling. **Senator Prentice** advised the study was to look at ways they could get more revenue through the Lottery. **Chair McLaughlin** called for public comments on both issues.

Ric Newgard, Seattle Junior Hockey Association, reported that he was one of the committee members on the charitable/non profit research committee. He thanked Ms. Patjens and Special Agent Lane for the lively debates. He stated that he was happy to hear some research was being considered; however, he emphasized the need to research what is being done outside our state boundaries – perhaps even Canada, to enhance gaming opportunities and other opportunities that already exist. He believed that information would give the Commission a level of comfort, as well as the Legislature, about what was already being practiced in other areas. Mr. Newgard wasn't sure what the research on the legislative intent, timeline and history would provide. He supported Option #1- spending less time on the timeline, and more on the gaming opportunities outside our boundaries. **Commissioner Niemi** reiterated the thoughts of some of the commissioners that this project shouldn't involve every single state, but comparable states, perhaps five to seven states, and that it would not include Nevada.

Chris Kealy, Cascade Gaming Management Services, commented on the house-banked card room side of the proposal, and the recommendation for an internal study. He advised there are already groups that gather statistics on gaming in Washington State and nationally, that would have access to national statistics. He addressed a 100-page report he obtained from the web site that had details and tax information available. He believed the option to have staff facilitate the research would be ill fated, and that the project should at least go through an RFP process to determine what the choices were relating to costs for the project. **Chair McLaughlin** verified that Mr. Kealy believed there were people already up to speed doing this, and if the Commission brought someone in on a temporary basis, they would have to spend a lot of time learning. Mr. Kealy affirmed the learning curve, and noted the quality of information would be up-hill against somebody that produces the same sort of information for other people. **Commissioner Parker** affirmed there was a lot of information readily available, which would facilitate an in-house study, without having to pay extra dollars and going through the consuming process of an RFP. He emphasized the Commission has capable staff, and if they could use licensee's with particular expertise as a resource on where this other information could be found, it seemed like a matter of asking for help when needed.

Commissioner Parker stated that his personal recommendation was to keep it simple and straightforward, and he questioned the need to go outside the Commission. Mr. Kealy noted the Commission was processing more licenses with fewer people—and the Commission is not overstaffed. He believed the study would involve a lot of man-hours from some highly qualified people, especially when trying to compare how our state taxes compared to other jurisdictions. He emphasized that if it was not quality information, it could steer people to the wrong ideas.

Chair McLaughlin didn't think the intent was to compare jurisdictions. The Commission simply wanted the ability to have that information when a legislator asked for more specific information. **Mr. Kealy** acknowledged that some of the questions they ask actually relate to the regulatory body; however, he questioned whether the Commission was supposed to know how seven other states function. He suggested that if the Legislature wanted that information, they have a budget. He demonstrated an RFP that the Lottery ordered and identified some similarities with the proposed Commission projects. He acknowledged the state was looking at ways to enhance their revenues through gaming. The Lottery RFP was believed to be due on September 20, 2003.

Commissioner Niemi noted her experience when talking to Legislators was that they didn't know the state didn't get any revenue, and they didn't know Washington was the only state in the United States that didn't get revenues. She believed it's appropriate to clearly provide them with that information. **Mr. Kealy** affirmed, however, he emphasized that study should be done by an independent group, and he noted there are hundreds of them doing analysis work on gaming.

Commissioner Parker again responded that this commission has a well-deserved reputation for professionalism and objectivity. He didn't think the Commission would be susceptible to somebody criticizing us if we facilitate our study for a very simple, straight forward and limited purpose. **Mr. Kealy** advised that he was a big proponent of audits, and he personally supported an auditor to be from the outside.

Commissioner Ludwig commented that up until the recent exchange, he wasn't sure the Commission should be doing this project because taxation was none of our business—that it belonged to the Legislature. However, it has been pointed out that the Commission needed this information to have it available for the policy makers.

Senator Winsley affirmed the information would be great if the Legislators read it—if they are going to look at the statistics and make a policy based on that information—and if they agree with the information. She cautioned that there are a lot of politics in Olympia, and Legislators can't read everything. Senator Winsley advised that she had mixed emotions on whether studies are what they are supposed to be, or if it was all just a waste of time and money.

Senator Prentice reported that some Legislators had spent a considerable amount of time just looking at the entire gambling industry—at least the several years that she chaired the Committee. They did that so the Committee would be educated in a lot of things, taxation being one of them. She affirmed there were just so many issues floating around, and she didn't think anyone wanted to plunge in and increase taxes. On one side people sang the blues about how they were not making it anyway—and after the local initiatives passed, local revenues went down. When the Legislature

reduced the Bingo tax to 5 percent, they had to over-ride the wishes of the local governments. Senator Prentice noted the response from the charitables wasn't very gratifying because they still weren't happy—they thought the Legislature should do even more. She suggested that if someone was dying to do a study, go ahead; however, she didn't need any information from anyone to suggest taxing everyone. Particularly she recalled Lakewood taxed at 20 percent because they really didn't want the casino to be there, then I-695 passed, and suddenly, what had been so evil wasn't so evil after all, and now the current taxation rate was at 11 percent. Senator Prentice stressed that there are a lot of decisions, and some that the card rooms were just going to have to deal with. She didn't believe Legislators would be interested in addressing the tax issue, and she advised that she didn't have any inclination either.

Senator Winsley commented on the aspect of requiring a 60 percent favorable vote—noting that was not easy to achieve. **Representative Wood** concurred, noting that anything that is ruled an expansion of gambling, required a 60 percent vote. He agreed with the points being made. He reported that Chairman Conway of the House Commerce and Labor Committee had the state-by-state comparison information last session. He concurred with staff that the one thing that stood out was that they are almost all unique. Representative Wood advised that Washington's overall taxation system, the gambling taxation system and how it is applied is very complicated, especially when that is combined with tribal compacts and IGRA requirements. He reported the overall feeling of the committee was to leave things alone for a year or two, and let things balance out. The process has been changing almost yearly for about seven years—things were going up, things were going down, and places were closing. The thought was to sit back and let it form before making any new decisions. Representative Wood believed the big issue the Legislature should be looking at over the next couple of years would be an overall tax reform. Gambling taxes might be a part of that, and he suggested that might be the time to do some studies specifically focussed on that issue.

Senator Prentice offered an assurance that if the Legislature looked into this, they would not omit looking into the legislative intent. She reported the Legislature certainly looked into the history of the other states, and Washington's evolved from a certain history, and through people becoming very much aware—which is why the Legislature has a tendency to act on zoning. Politicians have questioned why minors could be in Bingo halls—and it's because Bingo started in the Catholic Church. Sometimes there are undesirable battles, but people have to know the history and how we got where we are.

Commissioner Parker inquired if the state-by-state data Representative Wood mentioned could be provided to the Commission. **Commissioner Ludwig** concurred that it wouldn't make sense to reinvent the wheel if the data was already available. **Director Day** believed the foundation of that information was supplied by the Gambling Commission, which brought the discussion full circle regarding the issue of who does what, agency staff or someone else. Commissioner Parker suggested that instead of a study, perhaps the Commission should just talk about a report. Director Day affirmed that concept had a lot to do with the concurrence in the staff recommendation to keep it shorter and smaller. He reported that a lot of the information has already been collected by staff. One of the problems with the information that was presented was that it was all different and difficult to translate—for example, does 3 percent of gross in one jurisdiction compare with 20

percent in Washington, and what does that mean and how does it take into account the B&O taxes, and the total tax. He emphasized that it was difficult to take that information and translate it to make it speak the same language.

Commissioner Niemi stated that she was not in favor of facilitating an RFP and paying for a study—she was in favor of informing the legislators about the revenue picture. **Chair McLaughlin** called for public comments.

Michael Transue, Washington Restaurant Association commented that he appreciated staff's willingness to work with the Association, the Committee, and the Task Force. He explained that in the outset there was an understanding that Tribal groups would not be studied in the study. The Association believed that in not doing that, the Commission would not get an accurate picture of what was going on around Washington State. He commented about his experience with local government/ school districts conducting studies utilizing in-house staff. He believed conducting a study with a consultant, out-of-house, would bring a level of independence that the Commission wouldn't otherwise have—especially with a stakeholder group as diverse as what the Commission deals with. Mr. Transue addressed the staff changes made to the recommendations originally submitted by the Task Force, and asked that those changes be redirected to the Task Force so they could maintain the credibility of the Task Force, and so they could examine the changes made. Regarding the recommendation to review only five to seven states, Mr. Transue explained that it would be the view of the Task Force that examining less than 50 states wouldn't give the Commission a full picture. If there are 50 differences, they have to be explained so that every one would understand the differences. If only four or five states are surveyed, and then further report that there are 45 others that may or may not be different, it wouldn't give everyone the full picture. Mr. Transue also understood that the Lottery position was moving forward and they would be looking at enhancing revenue through gambling. He believed some of the study may be conflictive; however, he suggested that to get to enhancing, it would mean all the underlying information would still be needed as well.

Commissioner Ludwig responded that he couldn't see checking with all 50 states because some of them don't allow gambling of any type. He also indicated that he wouldn't want to compare with New Jersey or Nevada. **Mr. Transue** concurred, but he believed the Commission needed to show those states and present why the Commission wasn't analyzing them, and why Washington was so totally different from any other state in the country, and explain that was why the Commission was not analyzing them. Commissioner Ludwig advised that he personally viewed the Commission and Commission staff as very unique in the state of Washington—and that the Commission staff could do the study/report and do it very well, particularly because of the relationship with our licensees.

Commissioner Parker commented this discussion was enlightening, and he commented on the Lottery's RFP, noting that it was curious that the lottery was circulating a draft RFP that could go out on October 1, when in essence they haven't even formed a task force. **Director Day** responded that when the RFP was mentioned, he was advised indirectly that they were considering issuing an RFP; however, he had not been involved in any discussion directly or officially.

Commissioner Parker addressed the Commission's proposed scope of study, and indicated that the more we discuss this, it seemed like the Commission was evolving in the direction of simply requesting a report—putting together information that the Commission basically already has, with some analysis of the information. He commented about the suggestions for an independent study, and with all due respect advised that he was not persuaded. He emphasized the Commission's organization is professional and independent. **Chair McLaughlin** verified that Commissioner Parker was speaking strictly on the tax issue. Commissioner Parker affirmed, and indicated that he believed the non-profit study was a different issue.

Jim Justin, Association of Washington Cities (AWC), outlined some potential resources to help the Commission with what the AWC hoped would simply be a report. He affirmed the AWC was very nervous about any kind of an in-depth study and Mr. Justin appreciated Commissioner Niemi's comments about having no intention of recommending lowering local taxes. However, the cities are concerned that if someone is at 20 percent, and the state gets some money, the local jurisdiction would have to drop their tax level. Mr. Justin reported the while the AWC was identified as a stakeholder; they were not represented on the committee, primarily because he had been unavailable. He reported the AWC could have provided Commission staff resources for their report. Mr. Justin reported that the AWC has information on what the tax rate is in every city by every type of gambling. The publication, *The Tax and User Fee Survey*, is produced annually. It lists the rates by jurisdiction. The AWC has also collected information from the state auditor's office. Their reports reveal exactly how much money (city only) local governmental taxes have brought in over the last five years. He reported that in 2001, local governments brought in over 36 million dollars. The bulk of that was from card rooms, punch boards and pull-tab games. By the end of next week, information could be available from the State Auditor's reports regarding each jurisdiction's gambling tax revenue—how much a city raised in gambling tax, and what percentage of revenue.

Mr. Justin noted that Senator Winsley pointed out that there were only 37 cities that levy a B&O Tax. He clarified that not every city levies a B&O tax—in fact, no one on this side of the mountains levies a B&O Tax. He believed there were other items outlined by Commission staff that may have been deleted, which would be extremely difficult to obtain current data—for instance, what would jurisdictions do with an increase—that would be different in each of the 281 cities and towns in the state. Mr. Justin wasn't sure that kind of effort would produce anything that would be helpful to a Legislator. Mr. Justin stated that he would not argue against the report because it may be helpful; however, it was something the Association does on a regular basis. The Association represents their clients in front of the Legislature and Mr. Justin affirmed the AWC would be glad to provide that kind of information to the Commission as well.

Commissioner Niemi confirmed that local jurisdictions collected 36 million dollars from gambling. **Mr. Justin** affirmed that cities in 2001, collected 36.9 million dollars. Commissioner Niemi advised that she would never consider trying to take any of that away from the cities. Commissioner Niemi suggested that the AWC put the Gambling Commission on their mailing list, because it would be very likely the Commission could end up getting the kind of information desired without doing an in depth study.

Dolores Chiechi, Executive Director, Recreational Gaming Association (RGA), stated she was representing the non-tribal casinos in the state of Washington. Ms. Chiechi advised that she was part of the committee that looked at this issue, and she thanked staff for including stakeholders. The committee met three times. Initially, it was staff's recommendation that staff did not have the expertise or the resources to conduct these kinds of studies. The group discussed it briefly and agreed at that moment that the committee's recommendation would be to go out for an RFP. The committee discussed the parameters, and came up with a big list. At the next meeting, the committee refined the parameters and prioritized what the committee felt was key in getting the results. Committee members were asked to contact former Commissioners, former Directors, Legislators, and others, to make sure the committee obtain helpful input. At subsequent meetings, the RFP was discussed and the committee members were adamant about recommending the Commission contract out for the research. The Committee also talked about the involvement of some of the committee members to participate in the selection committee once the RFP was released--and the committee was encouraged that the stakeholders were asked to be a part of that effort.

Ms. Chiechi explained that when she was informed that the parameters had changed and that the recommendation from staff would be to conduct the research in-house, and that some of the items from the study were going to be deleted and other items added, she felt like the committee's efforts were wasted. She emphasized that volunteers attended the meetings and took time away from their businesses to participate and provide their input. Ms. Chiechi advised that her concern was that in the future, when she asks her members to come forward and provide input, based on the latest experience (what was recommended by the staff and what is recommended by the committee wasn't the final report), they may shrug their shoulders and say why bother, because they may believe the information won't be considered. She acknowledged that the staff had to follow the input provided from the commissioners; however, she advised that the changes that were brought forward weren't discussed by the committee - they were last minute add-in/take-out recommendations. She expressed concern about future committee involvement, noting that ultimate committee recommendations and changes to committee recommendations without buy-in from the committee would make it difficult to get input and involvement from RGA members. She emphasized that the RGA always appreciated being involved in the process, and affirmed the study sessions were a good representation of the give and take of shared input from the people being regulated, by the people doing the regulation, and she emphasized that the RGA enjoys a symbiotic relationship unlike most other regulatory agencies. She noted that based on the information provided, it appears that staff may have the ability to research and obtain much of the information they are looking for via the agencies identified by Mr. Justin.

Commissioner Parker empathized with Ms. Chiechi's reaction and explained that he thought the Commission was talking about a narrowly focused piece of research; and apologized for any miscommunication. This experience demonstrated one of the things that he appreciated most about the Commission; the Commission's process to involve people. **Chair McLaughlin** hoped that licensees wouldn't get discouraged, because she felt everyone was in this together. **Senator Prentice** responded that it was clear, as Representative Wood reported; the House Commerce and Labor Committee met and reviewed the information available. She emphasized the last thing she

wanted to do was have meetings and disappoint people because things didn't turn out the way they wanted.

Commissioner Ludwig commented that in view of the information that may be forthcoming, or at least currently available through the Association of Cities and Counties, whether the Commission should even be considering a study or report on gambling taxes. **Director Day** believed the charitable study was a different issue. He concurred the whole tax issue has been more problematic because it is not really a direct issue within the Commission's jurisdiction. The Commission is specifically authorized in statute to study the issue; but, it is not under regulatory jurisdiction, which makes how to approach the topic problematic. In response to the concerns regarding participation in groups that may develop proposals from time to time, he affirmed the proposal may not always go forward exactly as proposed, and he hoped that wouldn't mean that licensees would quit participating. In this case, staff was simply attempting to collect information. When staff was called to testify before the Legislative Committees, staff prepared information like the tax report; however, it was difficult was to supply and translate all the information. Staff's intent was to make the information available and make sure that it was as accurate and factual as possible. With that in mind, the concept of a report, the concept of collecting the information and having it available in a report was suggested. Not a study to be utilized in consideration of raising or lowering taxes.

Director Day affirmed that it would take time to get the information together in a format that offered the ability to make some comparisons, and to provide the information in plain language. He believed a report was a better reference than a study; whether or not it was something that the Commission absolutely had to do—he affirmed it was not. However, Director Day believed it would benefit staff to be able to answer questions and respond to questions regarding the status of gambling in Washington, and what Washington does and does not do.

Commissioner Niemi agreed with Director Day. She realized there was some unity with the three ex officio Legislators who suggested that the Legislature probably didn't need this kind of information. However, during her recent contacts with Legislators, two or three of them from both parties and from the House and the Senate, and staff from the Governor's Office, all requested the kind of studies being discussed. Commissioner Niemi believed the kind of study the Commission was proposing, would give the Legislators the information they wanted.

George Teeny, card room operator in La Center, stated that it seemed like this had made a full circle, and he wasn't sure if it was going to be a report or a study, whether it would be in-depth or not, or whether there would be anything at all. He agreed the information would certainly help staff. He reported that the AGA produces a survey/study every year (he displayed the 2002 edition), that breaks down taxing, the type of games, and everything anyone would ever want to know about gaming in 50 states. He suggested clearly identifying the questions that needed to be answered and pulling the appropriate data from the reports available, and subsequently supplying that information to the Legislature in a very simple and succinct report.

Commissioner Ludwig advised that he was inclined to support staff's recommendations of the reduced topics in Option 2, and having the research done in-house because it appeared that job might

not be such a big job based on the outside resources available. **Commissioner Ludwig** made a motion that the gambling tax research report be facilitated by in-house staff, under Option Number 2, with reduced topics. **Commissioner Parker** seconded the motion. *Vote taken; the motion passed unanimously.* **Chair McLaughlin** recessed the meeting at 3:55 p.m., and recalled the meeting at 4:10 p.m. She called for comments regarding the public policy study on nonprofit/charitable organizations.

Julia Puckett commented that the charitable nonprofit organization needed more opportunities.

Senator Winsley inquired what the Commission hoped to get out of this study. **Chair McLaughlin** responded that the industry was looking at the possibility of adding different types of games to help the charitable organizations, possibly without having to ask for legislative approval, and to look at different states to determine what is happening to Bingo in their states, and whether other states have done anything to improve their situation. Senator Winsley believed electronic bingo would help; however, she acknowledged that only the Legislature would have the authority to grant that change.

Director Day clarified the study in Option 1(A) for the charitable non-profits was intended to be a broad study. One section asks for recommendations, which didn't necessarily direct it to something that might be a new game. The intent of the study was to take a full look at charitable and non-profit gambling in this state, and also take a look and analyze how our present Commission rules and state laws are interacting, not only within the intent of the Legislature in the Gambling Act, but also the current environment in gambling. It was designed to be a study that can be utilized directly by this Commission to formulate decisions for the future.

Commissioner Ludwig made a motion to continue this topic, at least for the next meeting, to provide more time to think about the proposal. **Commissioner Niemi** seconded the motion, and suggested that she would also support tabling the motion. **Chair McLaughlin** clarified the motion on the table was to continue this item at the October meeting. *Vote taken; the motion passed unanimously.*

8. **Other Business/General Discussion/Comments from the Public:**

Chair McLaughlin called for comments from the public.

Commissioner Parker - provided a report on his attendance of the National Council of Legislators from Gaming States. He distributed a summary of the conference, which was attended primarily by legislators from Alabama, California, Connecticut, Delaware, Florida, Georgia, Kansas, Michigan, Missouri, Pennsylvania, Rhode Island and Texas. He affirmed that national trends suggest that Bingo continues to decline because our society is choosing other forms of gambling such as Lotteries. There were also many discussions about state/tribal compacts. The staff of the organization put together a summary collection of what was going on in different states. He noted that people called "experts" were reporting that the federal officials, the National Gaming Commission and the Department of Interior Solicitors Office, have consistently taken the position that the National Law was to support tribal economic development to strike a compromise between

those who wanted to overrule the decision of the Supreme Court that had recognized tribal rites to game. In the context of the federal law that relates to the compacts, the Federal legal authorities were saying there needed to be an economic benefit to the tribes; otherwise they would not approve compacts that had revenue sharing simply for the sake of revenue sharing. Having the state adopt a law that authorized gambling in a state where it wasn't authorized before, would open the door to tribal compacts, and that was accepted as the Connecticut Pequot model. That tribe agreed to 25 percent of its slot revenue as a "Revenue Sharing Provision", in exchange, Connecticut then passed a law that said that exclusivity was then a provision. There was consensus that exclusivity needed to be defined within the state tribal situation, the state law, the state political situation, and the state environment. Whether or not, for example, in Washington, it would mean, exclusivity from today, accepting the 1997 card room law as a given, or whether exclusivity would mean having to go back to repeal the 1997 law, is the point of issue. Commissioner Parker believed that would have to be interpreted in the context of Washington State. However, it seemed pretty clear, that there was a consensus arena that there does have to be an economic benefit that goes to tribes as a trade-off for a revenue sharing provision in the compacts.

Senator Prentice commented that she attended a meeting with the Coalition for Tribal Self Reliance, and revenue sharing was one of the topics discussed. The discussion was very negative; in fact, they even resented having to deal with the state at all. The representatives were angry because of what other states have done, and they are afraid it would happen in Washington. Senator Prentice assured the attendees that wouldn't happen in our state, because we know better. She commented that "the tribes will talk about it, only when the genie is put back in the bottle (their phrase), and we repeal the 1997 law – which has us at a stalemate." Therefore, in this state nothing is happening.

Representative Wood inquired if Senate Bill 1529 was talked about. **Commissioner Parker** replied that it was perceived to be an attempt to legislate an administrative opinion. Two Senators thought it codified the solicitor's opinion, and there was a feeling that now was not the time for any Indian amendments to the Indian Gaming Rights under this Congress. There was a bill on the rise, and hearings, but no one expected the legislation to move.

Chair McLaughlin called for any other public comments.

Michael Transue addressed the charitable and nonprofit report, specifically Item 2, listing six new things that could help the industry and policy. He commented that if the Commission was going to look at one segment of the gaming industry, the Commission should also look at those types of questions for other aspects of the industry.

Chris Kealy, Member Management Services, commented on the idea that the only way to get economical benefit on a state level for revenue sharing by putting the genie back in the bottle and repealing the 1997 Card Room Act, seemed like a narrow way to look at economic benefits to the tribes by contributing money to the state general fund. He believed that tribes also benefit from the general fund of the state in supporting schools and roads, just as they did long ago. **Commissioner Parker** responded that several years ago, students from the Evergreen College studied that very issue. The findings were based on research methodologies that were agreed to by the Revenue

Department. The students made a finding that there was approximately \$135 million in revenue that came to the state as a result of tribal economic activity that wouldn't exist if the tribe didn't exist. They were able to identify no more than \$7 million that was appropriated from the state that was intended to serve the tribal community. Commissioner Parker affirmed there were some state monies that came out of the state treasury, and out of the budget to serve tribal communities, but it was disproportionate compared to what comes in to the state treasury. The report is posted on the Evergreen State College - National Indian Applied Research Institute link.

Ric Newgard, Seattle Junior Hockey, commented on the new web page for the Gambling Commissions web, noting that it was very user friendly, easy to maneuver in, and had great links. He acknowledged staff for a great job. With no further comments, **Chair McLaughlin** adjourned the meeting at 4:40 p.m., and noted Friday's meeting would commence at 9:30 a.m.

**COMMISSION MEETING
FRIDAY, SEPTEMBER 12 2003
DRAFT MINUTES**

Chair McLaughlin called the meeting to order at 9:33 a.m., at the Icicle Inn located in Leavenworth. The following members and staff were present:

MEMBERS PRESENT: **COMMISSIONER LIZ McLAUGHLIN, Chair;**
 COMMISSIONER ALAN PARKER, Vice Chair;
 COMMISSIONER CURTIS LUDWIG;
 COMMISSIONER JANICE NIEMI;
 SENATOR MARGARITA PRENTICE;

STAFF PRESENT: **RICK DAY, Executive Director;**
 ROBERT BERG, Deputy Director;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 AMY PATJENS, Manager, Communications and Legal Dept.;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

9. Minutes: Regular Meeting, August 14 & 15, 2003 – Vancouver:

Commissioner Niemi addressed the Petition submitted by Mr. Saucier last month and affirmed that Commissioner Orr made the motion not to file the Petition, and subsequently the motion failed. She inquired whether Mr. Saucier could make the argument that he could file this petition again, and whether the Commission should be giving him notice that he may. **Mr. Ackerman**, Assistant Attorney General, addressed the procedure - Commissioner Orr's made a motion not to file. Once that occurred, all of the Commissioners gave their reasons. In the end, with a split two/two vote, there essentially was no motion; therefore it failed for want of a motion, which complies with the APA. Mr. Ackerman affirmed the Petition may re-filed by the Petitioner, at any time.

Commissioner Ludwig made a motion seconded by **Commissioner Niemi** to approve the regular meeting minutes of August 14 & 15, 2003, as presented. *Vote taken; the motion passed with four aye votes.*

Manufacturer Reports: (Carried Over from Thursday's Agenda)

TidalPower Technologies, Inc., Shih-Chi City, Taiwan:

Deputy Director Bob Berg reported that TidalPower Technologies, Inc. (TidalPower), applied for a Class B Manufacturer license. Corporate headquarters is located in Shih-Chi City, Taiwan. In 1995, they began manufacturing hand held Bingo devices. Submission of this application is a result of a settlement of administrative charges against Game Tech International for using an unlicensed manufacturer. One condition was that TidalPower would apply for licensure with the state of Washington, which they have done. Special agents of the Financial Investigations Unit conducted a financial background investigation. No violations were found. Staff performed an analysis of TidalPower's corporate and financial records, and personal and financial background investigations were also conducted on the company's substantial interest holders. Nothing was noted that would preclude the company from licensure. Since the organization is currently not assembling or refurbishing any electronic bingo daubers, no on-site investigation was conducted. The Commission reserves the right to do that in the future should they begin manufacturing. The company is not licensed in any other state. Based on staff's investigation, staff recommends licensure of Tidal Power Technologies, Inc., as a Class B Manufacturer.

Bob Tull appeared on behalf of the licensee and advised that he didn't have a presentation. He reported the licensee appreciated the hard work by Commission staff to move this complicated/foreign application through the process. He believed that staff's recommendation to license the applicant was appropriate, and he noted that should the company resume actual physical manufacturing, then staff may justify a trip to Taiwan. That trip would be underwritten by the licensee. **Chair McLaughlin** called for any questions and public comments, there were none.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** that TidalPower Technologies, Inc. be licensed as a Class B Manufacturer. *Vote taken; the motion passed with four aye votes.*

10. Presentation - Card Games - Special Agent Brian Lane:

Special Agent Brian Lane provided a presentation on the commercial card game approval process. He reported that all manufacturer or distributors must apply for a license. They are required to supply a detailed game package for review and their application is considered against WAC 230-40-010. All social card games must meet the requirement of this WAC in order to be authorized for play in commercial card rooms. The game(s) must be played with a standard deck of cards, cards must have standard suits and number values printed on them, cards cannot have symbols, pictures or dollar amounts printed on them. Dice are not allowed.

WAC 230-40-010 states that players shall compete against the house -- that eliminates side betting and wagers between players. Each player must receive their own hand of cards and be responsible for decisions regarding their hand; whether to fold, discard, draw additional cards, and/or to raise the wager.

Agent Lane highlighted the wagering process and noted the limit is \$100 for a single wager (that is the baseline), and it also includes bonus wagers. Bonus wagers are an optional wager, made with the same hand, but it is an optional \$100 prize pool. Progressive bets are limited to \$1.00 against a progressive jackpot. He explained the wager styles for doubling down, splitting the hand, and insurance wagers. Agent Lane explained that when staff reviews the rules, staff ensures there are no more than two separate games being played with a single hand of cards. Bonus bets and progressive bets are considered a second game. He reported that currently there are approximately 45 games authorized for play; approximately 1/3 of those games are Blackjack based, and 2/3 of the authorized games are now Poker based. Agent Lane provided a demonstration video for the Let it Ride and Three Card Poker games.

Rules Up for Final Action

11. Petition for Rule Change by Dwight Bailey - Licensure of Entities that Sell Merchandise to be used as Prizes for Pull-tab Games:

WAC 230-04-124:

Amy Patjens reported this petition deals with businesses that sell merchandise for pull-tab prizes. The Petitioner, Dwight Bailey owns Spokane Pull-Tabs & Supply Company, and as a company he is licensed as a distributor to distribute pull-tabs, bingo paper, and other gambling related supplies. Right now, businesses that sell only merchandise to pull-tab operators are not required to be licensed unless they package the merchandise and pull-tabs. Mr. Bailey packages them together, and he is therefore required to be licensed. Mr. Bailey was concerned because there are some specialized businesses that target pull-tab operators, and because they are not selling pull-tabs, they don't have to be licensed by the Commission. He would like to see them licensed. Mr. Bailey is also required to follow the discriminatory pricing rules, while others do not. Staff wasn't sure Mr. Bailey's rules would accomplish his desired intent, and staff therefore does not support the petition. Staff recommends the Commission not adopt this rule. Staff also met to draft rules to address the discriminatory pricing issue, and while it was not exactly what the petitioner wanted, it did address the discriminatory pricing concerns.

Ms. Patjens noted the agenda packet contained a letter supporting the petition from Gasperetti's Distributing, and Mark Sivanish. There was testimony at the last meetings from Ken Sroufe of Mr. Ed's, and Billy Tackitt who owns several of the Buzz Inn Restaurants. Mr. Tackitt felt the Commission should look carefully at the proposal. He considered it a Monopoly Rule. There were some questions regarding the flares, and Assistant Attorney Ackerman researched the WAC and could not find any statements of intent. Staff recommends not adopting the rule.

Scott Johnson, owner of Spokane Pull-Tab and Bingo Supply, explained the main intent for the rule was to eliminate illegal activity. He affirmed there has never been a problem with an owner going to Costco or to a retailer to purchase their own merchandise, and there was never intent to monopolize this rule. Mr. Johnson's problem was with the people selling gambling supplies - the prizes themselves for the merchandised games. He advised these people have the rules and regulations, they have the flares, which they know are illegal to give to the owner, and none of them have been written up because they cannot be investigated by the Gambling Commission because they are not licensed. **Mr. Johnson** explained his desire was to have a level playing field. He stressed that if

licensees have to sell merchandise at a certain price all over the state and can't negotiate with customers and make deals, then someone else shouldn't be able to do so just because they aren't licensed. He explained that merchandise sales are part of the monthly records that he remits to the Gambling Commission. **Commissioner Ludwig** inquired whether Mr. Johnson was prohibited from selling merchandise separately from the pull-tabs. Mr. Johnson replied that when he inquired if he could use a separate company, a separate invoice book, and pay his employees separately, with a separate W-2, he was told that it would be illegal. In response to a question about flares, Mr. Johnson explained that one flare is the flare with all the pertinent information about the game; it contains the Washington State number, the manufacturer, the serial number, and the winning numbers. It is a blank flare with numbers. The distributor makes a flare that attaches to a flare behind it -- the Gambling Commission number shows and the serial number shows. That information is also on the second flare.

Senator Winsley suggested that if a tavern owner had the right to go to Costco or to a distributor; it seemed there were two sets of rules, which didn't seem fair. **Mr. Johnson** affirmed, stating his position would be to either license everybody, or don't license anybody. **Commissioner Ludwig** commented that Mr. Johnson indicated that prizes were considered a gambling supply. Mr. Johnson responded that the prizes he was talking about were directly sold to a tavern or an establishment licensed for gambling, as a merchandise prize, and are sold for no other purpose.

Commissioner Ludwig verified from staff that it would be illegal for Mr. Johnson to sell supplies separately. **Director Day** responded that part of the problem is that from the Commission's standpoint it's a package deal. The prize with the pull-tab scenario brings the full regulatory part of the Commission to bear. With that, there is the restriction practice on credit and discriminatory prices, resulting in regulatory restrictions being extended to merchandise prizes. He suggested that it wouldn't be that difficult to get around that by developing a separate business and offering the incentive prize, or credit, to attract accounts. Director Day indicated that the problem is whether or not the Commission wanted to continue to regulate the merchandise prizes. In order to clarify this, the Commission might want to regulate the pull-tab sales and take off the discriminatory pricing and credit restrictions with merchandised prizes. In theory, if someone had a separate company that sold prizes independently and didn't have anything to do with pull-tabs; that would be permitted. That is why staff is suggesting that rather than bring other people into the regulatory screen, the Commission consider deregulation. **Chair McLaughlin** questioned if flares would count. Director Day responded that the only people authorized to make subsequent flares were the representative, the distributor, or the operator.

Senator Winsley stated that in 1971, she worked with the Senator that sponsored the bill that established the existing program, and that she was familiar with the legislation and the reasons for it. One was to have a clear audit so there wouldn't be any possibility for corruption. She acknowledged there was a different competition in the market place today that needed to be considered. An audit trail for purchases from Costco would not be the same audit trail from as the trail from a distributorship, especially if the purchaser was paying cash versus putting a purchase on a Visa card. Senator Winsley believed this would be getting into an arena of different rules for different players, which was unfair. She supported leveling the playing field.

Director Day affirmed any operator could buy from Costco and make their own flare. Agents would audit that by getting the original purchase and original receipt, and it would have to be compared to the value of the prize. He advised that there is a specific rule on mark up. He believed that what Senator Winsley was getting at was that the person who sold the merchandise does not receive the regulatory scrutiny that licensed pull-tab distributors do. However, the Commission needed to make sure the public was getting the correct value of the prize, and he acknowledged that the recent trend of specialized market/businesses targeting the pull-tab operator/environment was creating more of a problem. **Mr. Johnson** affirmed that one of the biggest problems he has, are the people that go from bar to bar, selling gambling supplies/merchandise directly for the purpose of gambling. He advised that while he was not totally against deregulation, it could open up a whole another can of worms, and he related an example of potentially illegal flares. **Cally Cass-Healy**, Assistant Director, acknowledged that the Commission has received complaints about illegal flares, however, when staff followed up, they did not meet the technical standards for how a flare was defined. Technically they were not illegal flares and they would not be required to be licensed.

Commissioner Ludwig advised that personally, he didn't care what the price of the prize was--if number 101 wins a Fenwick fishing rod, he wouldn't care what the operator paid for the prize. The player would know what the prize was, and if the player wanted to take a chance and try to win it, that was strictly his business. It would not be unfair to anyone. **Mr. Johnson** responded that if that was the case then the Commission wouldn't need to regulate pull-tabs at all, it could be 40 percent payout games with one big winner. **Commissioner Ludwig** questioned whether the Commission should have a rule on merchandise, and he didn't think the Commission ought to be "messing around" in a free market area.

Michael Transue agreed with staff's recommendation and recommended the Commission deny the petition. **Bill Tackitt** concurred with Mr. Transue, and recommended following staff's recommendation and making a transition for distributors.

Ken Sroufe, Mr. Ed's Casino and Bingo Supply, requested that staff take a hard look at this issue. He advised it was feasible and reasonable for distributors to sell merchandise to any operator on a separate invoice that would carry all the pertinent data, and provide the paper trail to show exactly what was purchased and what was received. However, this change would allow distributors to market the merchandise in different geographical areas, the same way that everybody else markets merchandise they purchase. Mr. Sroufe requested that the Commission support something that would allow distributors to go out and be competitive. He affirmed that may only be one percent of the total, but that one percent of the total was vital. **Director Day** verified that Mr. Sroufe was asking the Commission to follow up on whether or not the restrictions relative to merchandise prizing could be removed, and if there was some regulation that can do that, that would allow them to compete fairly with the other individuals that aren't regulated. He noted that Mr. Johnson expressed the concern about whether or not that would lead to competition between the distributors that might force small ones out of business. Director Day emphasized that particular issue had a lot to do with why the Commission got into this issue in the first place--to try to make sure that a big distributor couldn't dominate the merchandise market because smaller entities wouldn't be able to

compete. Director Day noted there was history regarding those rules. **Commissioner Parker** thought Director Day's comments sounded like an economic policy rather than anything else. **Director Day** affirmed that was why staff suggested this was an area to look at, to unearth what might be under the whole principal. **Mr. Sroufe** affirmed and commented that merchandise should be allowed to be processed and handled like anybody else would handle and process merchandise; it technically didn't become a gaming item until the merchandise was put with the pull-tab device. Commissioner Parker inquired how long it would take staff to come back with a report on options. Director Day responded that following the Commission's normal process, staff could possibly provide that report early next year. Any recommendations would also be scheduled to allow the opportunity for feedback through the study session process. If, however, there was some desire to short circuit the process, which allowed for that feedback at an informal level, before staff presents it before the Commission, then approximately two months could be cut off the process. Director Day cautioned that he would hate to move too fast because there were a lot of issues, he said "the Commission got into the whole discriminatory pricing whirl for a lot of reasons before a lot of us were here." He believed it had a lot of merit.

Director Day reaffirmed that if the Commissioners were interested in having something right away; such as being able to delete some of the language that would remove the regulatory restriction on prizes, the rules team could move much faster, however, he wouldn't advise that direction, or that sense of immediacy.

Assistant Attorney General Ackerman stated that if no one made a motion, since this matter was up for final action, or if the Commission did nothing at this point, then after 180 days from the point of filing, the APA deems the Petition withdrawn. The petition would be denied. After 180 days, it would simply expire because it failed to meet the time limit.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to follow the staff recommendation and not approve this Petition and proposed rule.

Commissioner Parker asked if Mr. Bailey could create a separate company and therefore not be regulated. **Director Day** responded if it was simply directly related to merchandise with no intent to get around the discriminatory pricing rules, he believed Mr. Bailey could do that. However, right now, the Commission had rules that prohibit this group of licensees from offering things that are discounted. There are only three ways they can issue them at lower prices, and they can't sell them on credit. Therefore, if someone formed a company just to be able to offer credit to attract customers, the Commission could very well have problems. **Senator Winsley** suggested that the simple remedy would be for legislation to disallow that practice and making the companies illegal that are unlicensed and selling merchandise door to door, and selling on credit. Director Day affirmed.

Commissioner Niemi expressed concern about setting some kind of priority as to what the Commission wanted staff to be doing -- she also agreed with the motion. **Director Day** emphasized there was a sizable body of administrative rules dealing with discriminatory and credit pricing relative to distributors and pull-tab sales, and that it had a lot of difficult history, which was part of

the problem that staff was dealing with. The Commission is struggling with the question as to how much the Commission should be regulating in this instance. **Chair McLaughlin** called for the vote; *the motion passed unanimously.*

Commissioner Parker questioned his interpretation that Mr. Baily had no legal restriction that would prohibit him from creating a separate company to aide in the business of marketing. Director Day responded that if a distributor wanted to establish a separate legal corporation as defined by Commissioner Parker, there wouldn't be any legal restrictions.

Chair McLaughlin called for a recess at 10:45 a.m. and recalled the meeting at 11:10.

12. Minimum Bankroll for House-Banked Card Rooms:

WAC 230-40-833:

Commissioner Ludwig commented that after having listened to the discussion yesterday and the confusion over the minimum balance worksheet, he would make a motion seconded by Commissioner Niemi to delay and hold over this rule over for one month. *Vote taken; the motion passed unanimously.*

13. Card Room Rules:

WAC 230-08-010, WAC 230-12-340, WAC 230-40-010, WAC 230-40-040, WAC 230-40-125, WAC 230-40-805, and WAC 230-40-821:

Amy Patjens explained that Item 13(A) was up for action. It is a housekeeping change which clarifies that general housekeeping records have to comply with an additional WAC requirement. WAC 230-08-010 the monthly record, is a housekeeping change.

Item 13(B) - Staff recommends the Commission not adopt this particular rule. WAC 230-12-340 is a general rule that licensees cannot purchase gambling equipment on credit. An exception is made if they are purchasing expensive gambling equipment, such as Bingo ball blowers and pull-tab dispensing machines. The amendment clarifies that small items such as chips, cards and other consumables cannot be purchased on credit, but must be paid in cash.

Item 13(C) and (E) - WAC 230-40-010 and WAC 230-40-125 are up for repeal because they dealt with Washington Blackjack and there isn't anyone currently playing Washington Blackjack.

Item 13(D) - WAC 230-40-040 simply strikes the language restricting commissions only to Pai Gow Poker. Effectively, licensees may receive commissions for other games.

Item 13(F) WAC 230-40-805 is a clarification that any money removed from a jackpot must be used to purchase merchandise or prizes, or it should remain in the jackpot account.

Item 13(G) WAC 230-40-821 clarifies where records are to be stored and makes it consistent with other rules with similar retention requirements. They must be kept for three years; however they are

only required to be retained on site for six months. **Ms. Patjens** affirmed that staff would recommend final action.

Chair McLaughlin called for public comment, and there was none.

Commissioner Parker made a motion seconded by **Commissioner Ludwig** to adopt 13(A-G) without Item 13(B) as staff recommended. *Vote taken; the motion passed unanimously.*

Rules Up for Discussion

14. Petition for Rule Change by the Recreational Gaming Association. Increasing Betting Limits for House-Banked Card Games to be heard after Agenda Item #17.

15. Promotions for Gambling Activities:

WAC 230-12-050, WAC 230-20-050, WAC 230-20-052, WAC 230-20-190, WAC 230-20-242:
Ms. Patjens reported this rule was up for discussion and filing. Item 15(A) repeals the rule that restricts Bingo operators from transporting Bingo players from out of state more than once a week. Item 15(B) is a housekeeping rule that goes along with 15(A). Item 15(C) was really meant as a housekeeping change to go with the bussing rule and staff also re-wrote the remainder of the rule to make it clearer. At the last study session, staff received a number of questions about the language, and licensees wanted to know if they would have to notify the Commission each time they wanted to give funds to a specific person. That was not the intent, and staff is continuing to look at this and may have a proposed amendment or may withdraw the rule.

Items 15(D) and (E) deals with the rules that were passed in 2000 to streamline promotions related to gambling. 15(D) deals specifically with the free play for the bingo players. 15(E) similarly deals with creativity and originality contests. They are covered in this same rule because they are promotions. Staff recommends further discussion.

Chair McLaughlin called for public comment and there were none.

Commissioner Ludwig mentioned again that he was interested in this proposal primarily because most bingo players are older and don't drive or don't like to drive, especially at night, and this might give operators a chance to increase their attendance at the bingo sessions.

16. Customer Appreciation Tournaments:

WAC 230-40-055:

Ms. Patjens reported this rule deals with card room tournaments, and it was proposed by licensees in the June study session. It limits the amount that may be required for a buy-in when setting up a game. The rules have remained the same for 17-years. The proposed rule would increase the player buy-in from \$50 to \$100, and the total from \$200 to \$400. One further change is required in Subsection 3, the Rules Team preferred language requiring that tournament rules be submitted to

staff for review if it was over \$50. Staff recommended further discussion, and if approved, the rule would be scheduled for final action at the October meeting. There were no public comments.

Rules Up for Discussion and Possible Filing

17. Audits and Reviews of Financial Statements for House-banked Card Rooms:

WAC 230-40-823:

Cally Cass-Healy, Assistant Director, explained this rule was up for filing and had to do with financial audits being submitted to the Commission annually. This would require a review or an audit for all house-banked card rooms. House-banked card rooms with gross receipts over \$3 million would submit audited financial statements. House-banked card rooms with gross receipts less than \$3 million would submit review financial statements. The businesses financial position would be disclosed to the Commission. Staff received some correspondence feedback from Clark, Raymond & Company, relating to requiring a licensee to have their statements audited over a different time of the year. Typically, because of taxes, their busy season is the first three months of the year. Unfortunately, the licensee picks their business year, and the audits are required for the business year. Therefore, staff did not make that change. Secondly, instead of having the extension request being made by the licensee Clark, Raymond and Co., wanted to allow that to be made by the CPA firm. The Commission holds the licensee accountable, and staff felt that the extension request should come from the licensee. Lastly, Clark, Raymond and Co., wanted to replace the 120-day requirement for a due date on the statements to 180-days. Currently the Commission allows a 60-day extension, and therefore staff felt that if we went to 180-days and then allowed the 60-day extension, the information would no longer be timely.

Senator Winsley noted the Commission had been operating for 30 years and asked why this change was necessary now. **Ms. Cass-Healy** responded that house-banked card rooms have only been in existence since 1997, and the Commission needed to be able to regulate the entire business. Staff has specific concerns and the statements would provide the staff with an opportunity to address those concerns. **Commissioner Niemi** commented that card games came into effect in 1997, and the total taxes paid (which does refer to the size of these establishments), in 1997 was \$237,000 and by 2001, they paid \$16 million in taxes. She believed that was a reason to take another look at this, because more and more money was coming into the card rooms. With no further comments, **Chair McLaughlin** called for public comments.

Tim Iszley, Silver Dollar Casino, advised that he was not against this rule; however, he was concerned about adding extra expenses to entities that are already struggling. He suggested this rule would do that to some extent. He recommended moving the bar from \$3 million to \$4 million.

Gary Murrey commented that staff had worked many months on this issue at the study sessions. He advised that he was trying to come to terms with what was needed, and what the requirements were for the Commission. He acknowledged the Commission needed to do their job without burdening licensees to the point where they can no longer operate. He agreed with Mr. Iszley that the \$4 million mark would be better. In reference to the promotion issue, **Mr. Murrey** advised that

he endorsed adoption of the rule. He noted that a way to reward the customers would be with added times of play. Mr. Murrey asked the Commission to eliminate the ten consecutive day requirement so that licensees could extend the customer appreciation tournaments over a longer period of time. **Commissioner Niemi** addressed the \$4 million mark versus the \$3 million mark for financial audits and asked if there was a natural cut-off. Mr. Murrey responded that about half the facilities are above, and half below the \$3 million threshold.

Chris Kealy commented that he had put most of his comments in writing; however, he was a little confused and thought we were going from \$3 to \$5. He expressed concern about an industry that is now responsible for surrendering \$37 million in local taxes. He said that sooner or later, someone is going to do something bad, and the licensee would need the audit and review statements. The cost of a reviewed statement would probably be \$2,000 less than an audited statement. He advised that personally, he liked the defense mechanism an audit provides. **Commissioner Parker** inquired if the cost of a review or an audit was a deductible expense. Mr. Kealy affirmed.

In response to Commissioner Niemi's comment regarding a natural break point, **Ms. Cass-Healy** reported that there were approximately 14 licensees between the \$2 and \$3 million point; however, staff would provide the specific ranges next month.

Max Faulkner, Kegler's Inc., reported that he represents four of the "Mom & Pop" card rooms and that he had heard figures more like \$15 to \$25,000 for an audit. He supported Mr. Iszley's \$4 million threshold.

Delores Chiechi, Recreational Gaming Association, commented that should this rule be approved and the audit information collected, the RGA hoped that the Commission would then compile that information into a report that the Legislature, staff, and the media could use to show a better picture of the full business operations--not just the net income, or the gross receipts.

Doug Boone, General Manager of the Little Creek Casino/Squaxin Indian Tribe, reported that performing an audit at any level was a common industry practice--whether they lose money, or whether they make money. He believed audits should be conducted at the end of each year, to look at the health of the organization, to look at what could be done to make the business profitable and/or to turn the business around. Those are the rules that apply to the tribal facilities, and he believed those rules should apply uniformly for everyone in the industry.

Commissioner Niemi asked how much the audits cost. **Assistant Director Cass-Healy** responded that the Commission saw the bills for 13 of the 20 licensees in 2002, and they averaged anywhere between \$14,000-17,900 -- while the revues averaged \$6,100 to \$10,100.

Commissioner Parker made a motion seconded by **Commissioner Ludwig** to file the rule for further discussion. *Vote taken; the motion passed unanimously.*

Rule Up for Discussion

14. Petition for Rule Change by the Recreational Gaming Association - Increasing Betting Limits for House-Banked Card Games:

WAC 230-40-120

Chair McLaughlin explained she would allow 20 minutes for comments in support of the petition and 20 minutes for those against the petition. Next month, to be fair, the presentation order would be reversed.

Amy Patjens, Administrator, Communications and Legal Department, reported this rule was up for discussion. The Commission filed the rule at the August Commission Meeting--the petition was submitted by the Recreational Gaming Association. The proposal is to increase the betting limits from \$100 to \$300. The agenda packet contains a memorandum from Director Day outlining a history of the changes made with card rooms and regulatory issues. Director Day's memo explains that staff is not making a recommendation since this is primarily a policy call. Staff highlighted some things that the Commissioner's might want to consider; one of those was that an increase in betting limits would be considered to be an expansion to gambling by some people. Another point is that an increase in betting limits for one segment of the industry may increase the pressure to raise the betting limits for another segment of the industry. Tribal state compacts currently authorize a \$500 betting limit. The Commission has data that most individuals bet less than \$100, and we have financial data to indicate that operators have struggled at the Phase I limit of \$25. Last month, the Commission passed a rule to no longer have a Phase II review, which means that house-banked card rooms could start at the \$100 betting limit.

Staff was asked to provide some information about what constitutes an expansion of gambling and a memo was included in the agenda packet from Ed Fleisher explaining that the concept is actually a legal question that arises when the Legislature passes gambling legislation. The state constitution requires a 60 percent vote of each house to pass legislation authorizing lotteries, and basically under the constitution, all forms of gambling are lotteries. The memo points out that there are several other ways to define what would be an expansion of gambling. Some would feel that only meant those that require that 60 percent vote. It could be any new type of gambling that was authorized, wagering limits could be some people's definition of an expansion, or an action that provides additional opportunities to gamble, or something that could increase the number of licensed gambling establishments, or any action that caused a noticeable increase by the public in the amount of gambling in the state. Ms. Patjens explained the Commission has three options available regarding this petition: filing for discussion, denying the petition in writing and stating the reasons for that denial, or proposing an alternative.

Bob Tull, representing the Recreational Gaming Association provided a PowerPoint presentation, noting the statute (RCW 9.46.070) is clear that this Commission sets wager limits. Mr. Tull believed this was not a regulatory concern of any magnitude from the staff because significant rules are already in place that makes sure people keep track of their money. The Commission has heard a variety of views from the industry; however, no one says that we should not have highly regulated gambling in this state. People don't have to bet the maximum limit; as adults they decide whether or

not they want to play at a \$2 table or a \$10 table, and whether they want to bet more or less. The proposed rule change would simply allow people more choices than they have today, and it will help the businesses. There is no question that there has always been a requirement that operators must have enough cash to meet their responsibilities, and this rule would further evolve that requirement.

He briefly addressed the history of wagering limits, noting that Poker started out lower, and that the fund raising events (FRE's) had to be increased by the legislature. **Mr. Tull** advised that almost no FRE's take place today. Pull-tab limits evolved over the years as well, and the Gambling Commission was responsible for that. Regarding raffle tickets, the Legislature recognized that times had evolved and raised the allowable sales ticket rate. Card rooms started out with a low person cover charge. The Legislature allowed that to evolve over time as well. Finally, between 1985 and 1992, cases started coming along about gaming opportunities, and then IGRA was passed. This state, through the Gambling Commission, decided to be serious about making sure regulation was meaningful. Mr. Tull affirmed that Washington has done a good job of achieving co-regulation, but in the beginning, a lot of people on the tribal side were upset because of the limited scope. The process was started and their limits were set at \$500. There are places where the limit would be \$500,000 but not in this state. Pull-tab prizes limits marched along as well, again taking into account that dollar values changed over the years. In 1994, the tribes were convinced that they ought to be allowed to do more because their goals for their reservation, for their people, and for their tribes required a higher level of activity. The Commission was willing to look at that. The Commission realized that there was no real justification for a particular number; however, the Commission wanted the involvement as sophistication increased. As 1994 came to an end, the tribes banded together and convinced the Governor and the Attorney General that the Commission ought to take another look. In the end the Commission and the Governor did go along with increasing the limits to what they are today.

Subsequently licensees went through a process of Phase I and Phase II, because the Commission wasn't sure if all the necessary tools were in place, and the Phase II process was intended to make sure the Commission got one more look at each facility. In 1995, then Senator Heavy had a committee study the question of gambling in the state. The Commission replied, focussing on the betting limits question, that while there was an expansion of the wagering limits, the Commission still had explicit and strict limitations on every aspect of casino gaming. **Mr. Tull** believed the Commission's internal discussions dated back numerous years, and the Commission never has been able to articulate a basis for permanently restricting betting limits at the original levels. He agreed that the idea of having limits of some type was clearly a Commission responsibility and within their authority. He reported that card room fees marched on about the same time, and, in 1995 the betting limits moved along with compact amendments, and raffle tickets also went up. Card rooms really changed in 1996. The legislature allowed card rooms to expand from 5 to 15 tables, which is still a very strict limitation, but it allowed for some player-banked games to take place. Pull-tabs went forth, and finally, house-banked Black Jack was added at card rooms, which led to the card room enhancement program that operated for several years. The first of those licenses happened to be granted in November of 1997 to Freddie's of Renton. Betting limits started at the Phase I and Phase II limits. Mr. Tull addressed the question of "why card rooms needed the higher betting limits" and he identified two things: one was subjective, that it's a good thing to give licensees and players some

additional choice as to how the licensee runs their business; and in the case of the player, how they manage their gambling. It certainly made it harder for the industry to argue that they couldn't bear regulatory burden in licensing, audits, or other things. If the industry had the ability to price their product to meet increased expenses, then they will meet their expenses. Right now, they have a very limited range for which they can price their product, and they need to have the money to meet the requirements of regulation, to maintain their facilities, to be good neighbors in their community, and to take part in all of their community projects, which either taxes or contributions underwrite. Over the years, the Commission has heard stories of how some licensees in particular have been exemplary citizens, as has been the case from charities and from the tribes. Mr. Tull affirmed that gaming has been used responsibly in this state, and the card rooms have been a part of this responsible process. Increasing the limits would have some increase on increasing volumes--which is the goal. It shouldn't increase the overhead of the facility, which is why licensees should be able to make more money.

The next question is how much licensees would vary from place to place, and **Mr. Tull** stated that not all licensees would implement all of the limit increase, or involve it all the time and certainly not all of the players would respond to the options. However, some would, and in certain situations it would be a definite boom to that particular business, and that would show up in the bottom line for state and other governmental tax collections. The stimulation of the economy was at least one factor in this proposal. It would make it possible for employers in card rooms to continue to respond to all of the changes. Having a little or a lot more volume would make it possible for better benefits, and potentially tips would go up, which would be a huge component for many card room employees. The employees would also get a raise – and having the industry be stable and having the industry succeed would make it a good place to work in.

While business costs have gone up, card rooms can't raise their prices more than a slight range. The industry isn't asking for sympathy, but they are asking for the ability to adjust their business practices in the betting limit area to try to increase their volume and meet all their increasing expenses. **Mr. Tull** said it was clear the Commission has the authority, and the RGA believes there isn't a reason at this time why an adjustment shouldn't take place. The Commission is a regulatory body; it is not a social services agency. It was designed to make sure that gambling is properly regulated. In this situation, the regulatory concerns are completely manageable, and it has always been maintained that it wasn't a major issue. The minimum bank roll certainly addresses the public protections along with the entire regulatory scheme, and Mr. Tull affirmed that it was clear that from time to time, the question of increasing activity levels (whether it's raffles, Bingo, or other things), should be looked at, and, after serious review granted at some appropriate level. That has taken place for the charities, the pull tab operators, the tribes, and in this case, the card rooms are now asking that they be given additional flexibility to compete, and to meet the needs of their desired customers, and to improve their business situation. **Chair McLaughlin** called for speakers against the petition.

Doug Boone, General Manager of Little Creek Casino, representing the Squaxin Island Tribe advised that he certainly understood and did not contend the Commission's ability to raise betting limits. He advised the tribes also didn't contend the position of commercial operators to ask for said

limits to be raised. He advised that he did have a couple of questions concerning the process. **Mr. Boone** stated that due to the way the Commission has managed gambling for the state of Washington, the tribes felt that it would be rather disingenuous to the public right now to expand the commercial operator's ability to extend further limits. He recalled hearing Senator Prentice say that some of the roundtable discussions revealed that the public was concerned about the number of gaming operations—and about them being on every corner and being properly regulated. Mr. Boone emphasized that the tribes co-regulating with the Commission has been a successful endeavor. However, he believed that as the Commission considers changing the industry, and going from a social card room with \$100 betting limits to increasing the betting limits to \$300, that was a different game. He inquired if it was the intention of the commercial operators to have agents in their facilities doing all the operational management during the day. He believed such a change was changing the realm from a social aspect, and that it was increasing the commercial stimulant; if that was the type of regulation that they were intending to move towards. He acknowledged there was good regulation in the state, and that if it was the intention of the state to increase the betting limits, the commercial enterprise should be prepared to go to the same level of regulation as required for tribal gaming.

Mr. Boone addressed Mr. Tull's comment that the taxes to the state would increase as a result of increased betting limits. He advised that it was his understanding, and the tribes understanding, that commercial operators do not pay taxes to the state of Washington. They pay taxes to their local jurisdiction. He inquired whether it was the RGA's intention that there would be a tax added that would go to the state under this particular rule change. **Commissioner Ludwig** affirmed the commercial licensees do pay B & O taxes to the state.

Chair McLaughlin asked Mr. Boone if he would feel any differently if the betting limit was something other than \$300. **Mr. Boone** responded that he didn't condemn the RGA for wanting to raise their limits because that was a natural progression in any business. However, the tribes would like to address the regulatory considerations as the commercial operations move further from being a social card room, and whether such changes would require the licensees to have an agent on each of their premises at all hours of operation. **Commissioner Parker** questioned if Mr. Boone was suggesting that this might bring about a change in the nature of the business itself. Mr. Boone affirmed that as the industry progressed from \$25 limits, to \$100 limits, to \$250 limits, and then \$500 limits, and as we continue that progression, we won't see quite the number of scams, and we won't see people doing elaborate schemes to defraud the organizations. However, as limits are increased there is a greater potential for that to occur because they now have the potential to do those things for much larger numbers. It may also raise the potential for those kinds of things to take place in-house with staff. Mr. Boone reiterated that increasing the limits would be taking it out of the social card game realm and making it more of a professional atmosphere. He questioned if that was the intent and would that also invite the increase of regulatory manpower in the commercial organizations.

Commissioner Parker inquired if we were looking at a zero sum game in terms of the market - and at the people who are a segment of the market who play high stakes card games. **Mr. Boone** responded a smaller segment of the market would play those type of games, and he didn't think that

it would increase the amount of money commercial licensees would be able to make. He affirmed there would be a certain segment that they would attract that they aren't attracting at this time. However, **Mr. Boone** advised that it would be the Squaxin Island Tribe's position that the struggles the industry currently experiences, has less to do with the betting limit than with the number of operators, and there are probably too many of those operators in the state at this time, which is the reason the industry is struggling. He emphasized that it had nothing to do with the amount of the betting limits at this time. **Commissioner Parker** inquired if the Washington Indian and Gaming Association had a position on the rule proposal. Mr. Boone advised the Association had discussed the rule, however, they did not have a position at this time, and he anticipated they would be prepared to respond at the next commission meeting.

Mr. Tull rebutted the point that Mr. Boone made about the differing responsibilities and impacts, noting that it could be translated in different ways. One is that some operators may feel that their exposure to thieves is higher than they want, and they wouldn't implement higher limits. Others may determine that they have sufficient staff, and sufficient expertise to handle the increase, and they would implement higher limits. While the Gambling Commission will decide from time to time whether or not additional staff, additional oversight, and additional procedures need to take place, the licensees will also have a responsibility. Mr. Tull noted that historically, the Commission has looked at licensees in entirely different segments. It has been said, for example, that the Commission would protect the charities from things. It has been said that the commercial people, the card rooms and the pull-tab operators would have to protect themselves; the Commission was not there to save them. The Commission heard testimony from some operators that said audits are one of their tools; surveillance is also an accepted tool that licensees use. Those who don't feel they have all the tools in place to implement higher betting limits won't allow it. If they can't afford the risk to gamble, they won't implement it.

Mr. Tull believed the co-regulation of the state and the tribes was crucial to the vastly different sizes that we now have in facilities. He said the tribes have a responsibility - they are the owners. The state wanted to make sure things were done in a certain way, and there is a structure. In the end it comes down to how the owner, how that tribe wants to spend their energies to protect themselves. He affirmed they are well motivated to protect themselves at a very high level and he believed that was also the case with private licensees. Mr. Tull emphasized that the Commission typically wasn't sympathetic to the daily vagaries of business reality for commercial licensees. He anticipated that in this particular situation, as the Commission deemed appropriate, the Commission would let the commercial licensees know if different regulatory approaches were necessary. In the meantime, he commented that circumstances have lead staff to conclude there were no regulatory concerns.

Chair McLaughlin advised that she has struggled with this issue since 1998 or 1999, and she was still struggling with it, however, she was giving some thought to a trial period, to set the limit at three tables with a \$200 betting limit. **Mr. Tull** responded that the commercial licensees could be prepared to report on the implications of a trial approach, and affirmed the RGA would like to be responsive to each Commissioner's questions or curiosities.

Gary Murrey, Recreational Gaming Association, responded to Mr. Boone's comment about a social

card game as referenced in RCW9.46.0282, defines a social card game and doesn't reference the amount of the bet as part of the social card game. Mr. Murrey clarified that a social event may be going out for pizza and a movie and spending \$30, \$40. Another gentleman may go to the opera and to the Met and spend \$500 on a social event. In either case, it was an independent choice based on what they feel is a desirable social activity or social setting, and the resources they wish to spend.

With no other comments, **Chair McLaughlin** closed the public testimony.

18. Other Business/General Discussion/Comments from the Public:

Gary Hanson, Executive Director, Council on Problem Gambling addressed an upcoming workshop primarily for treatment providers, and invited staff from the Gambling Commission to attend. He announced they may attend the basic workshop at no cost to the Commission.

Max Faulkner, Kegler's Casino, East Wenatchee, reported it was his facility's 5th year anniversary and read into the record correspondence from Mayor Steven Lacy.

With no other business, **Chair McLaughlin** adjourned the meeting at 12:30 p.m. The next meeting is scheduled for October 9 and 10, 2003, in Spokane.

Minutes submitted by:

Shirley Corbett
Executive Assistant